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Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ELTON LLOYD,

PLAINTIFF,

v.

CIVIL NO: C 08-2942 EMC

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

OAKLAND POLICE OFFICERS H. JOSHI,
M. MCGIFFERT, AND OAKLAND
POLICE OFFICERS WHOSE NAMES
ARE NOT KNOWN TO PLAINTIFFS AT
THIS TIME, INDIVIDUALLY, AND IN
THEIR CAPACITIES AS EMPLOYEES OF
THE CITY OF OAKLAND, THE CITY OF
OAKLAND, AND DOES 1-10,

DEFENDANT.

1. Plaintiff, Elton Lloyd, is and at all times mentioned herein was a resident of Alameda County, California.

2. Officer H. Joshi, Officer M. McGiffert, and Does 1-10, police officers whose names and capacities are not known to plaintiff, are sued herein individually and in their official capacities as a sworn peace officers of the State of California, City of Oakland, for acts and conduct under color of law, as follows.

1 3. The City of Oakland is a municipal corporation of the State of California.

2 4. This action is brought pursuant to 42 U.S.C. sections 1983, et seq. and 1988, and
3 the California Constitution, civil rights statutes and common law. Jurisdiction is based on 28
4 U.S.C. sections 1331 and 1343 and the aforementioned federal statutes.

5 5. Plaintiff further invokes the pendent jurisdiction of this court to decide claims
6 arising under the California Constitution and California law covering the use of unreasonable
7 force.

8 6. Plaintiff has filed administrative claims in compliance with Cal. Govt. Code §910
9 et seq. and such claims have been rejected by the City of Oakland.

10 7. Plaintiff has standing to file this complaint against defendants because they were
11 injured by Defendants' acts, violation of the California and United States Constitutions, and
12 California tort law.

13 8. Under 42 U.S.C. sections 1983, et seq. and 1988, Plaintiffs have standing to bring
14 suit against defendants to recover compensation for Plaintiffs' injuries resulting from
15 Defendants' violation of Plaintiffs' Constitutional rights.

16 9. The City of Oakland is a subdivision of the State of California and was acting
17 pursuant to the police power authorized by Article XI, Section 7, of the California Constitution,
18 when Oakland Police officers injured Plaintiff.

19 10. When the officers injured Plaintiff, they were acting as employees of the City of
20 Oakland Police Department.

21 **FIRST CAUSE OF ACTION**

22 **VIOLATIONS OF TITLE 42 U.S.C. SECTION 1983**

23 11. Plaintiff hereby incorporates by reference paragraphs 1 through 10, of this
24 complaint as if fully set forth herein.

25 12. Elton Lloyd's Constitutional Rights were violated on June 29, 2007, at 1415
26 Magnolia Street, Oakland, California.

1 13. According to H. Joshi, she and M. McGiffert, received a report from a
2 confidential informant that a William Oliver, was standing in front of 1415 Magnolia Street,
3 Oakland, California talking to Plaintiff Lloyd.

4 14. The confidential informant also stated that William Oliver was a black male with
5 dreds and that he was on parole and in possession of a large quantity of marijuana, which he was
6 storing in a grey vehicle, license 5LQJ000, also in front of the location.

7 15. On or about June 29, 2007, in Oakland, California, Defendants H. Joshi and M.
8 McGiffert appeared at Elton Lloyd's residence at 1415 Magnolia Street, Oakland, California.

9 16. When H. Joshi and M. McGiffert arrived at 1415 Magnolia Street, they did not
10 see William Oliver. They saw Plaintiff and they began to question him about William Oliver.

11 17. When Plaintiff told the defendants that he had not seen William Oliver, they told
12 him if he refused to cooperate it would not be good for him.

13 18. H. Joshi and M. McGiffert demanded to search his residence.

14 19. Plaintiff refused to allow them to search his residence; however, they entered and
15 searched it anyway. They did not locate any contraband or unlawful evidence.

16 20. H. Joshi and M. McGiffert then searched the vehicle that was parked in the
17 driveway of Plaintiff's residence, the one bearing license number 5LQ000.

18 21. H. Yoshi and M. McGiffert claimed that they found illegal contraband
19 inside the vehicle.

20 22. Plaintiff was not in or near the vehicle, he did not own or control the vehicle, and
21 he did not own or control anything inside the vehicle.

22 23. H. Joshi and M. McGiffert told Plaintiff if he did not provide them with any
23 information on William Oliver, they would arrest him and charge him with selling drugs.

24 24. Plaintiff told them he had no information for them.

25 25. H. Joshi and M. McGiffert arrested Plaintiff and charged him with possession of
26 drugs for sale.

